

CAI YB
B37

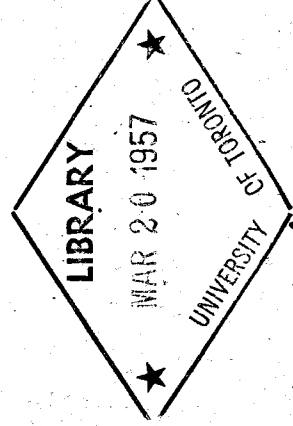
Fifth Session, Twenty-Second Parliament, 5-6 Elizabeth II, 1957.

THE SENATE OF CANADA

BILL D.

An Act to provide for the Control of Narcotic Drugs.

AS PASSED BY THE SENATE, 12th MARCH, 1957.



EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1957

CAI YB
B37

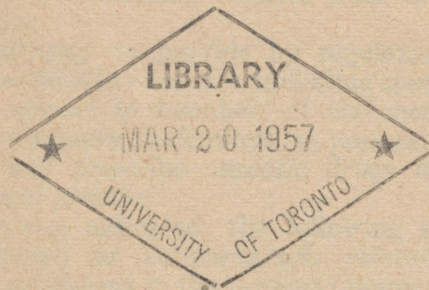
Fifth Session, Twenty-Second Parliament, 5-6 Elizabeth II, 1957.

THE SENATE OF CANADA

BILL D.

An Act to provide for the Control of Narcotic Drugs.

AS PASSED BY THE SENATE, 12th MARCH, 1957.



EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1957

82706

5th Session, 22nd Parliament, 5-6 Elizabeth II, 1957.

THE SENATE OF CANADA

BILL D.

An Act to Provide for the Control of Narcotic Drugs.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

Short title.

1. This Act may be cited as the *Narcotic Control Act*.

EXPLANATORY NOTES.

The purpose of this Bill is to revise the *Opium and Narcotic Drug Act* to provide for more effective measures and procedures to insure the availability of narcotic drugs for, and their limitation to, medical and scientific purposes in Canada; to make provision for appropriate offences and penal sanctions respecting illegal transactions in narcotic drugs and other violations of the law as recommended by and contained in the Report dated the 23rd day of June, 1955, of the Special Committee of the Senate Appointed to Inquire into and Report upon the Traffic in Narcotic Drugs in Canada and problems related thereto.

Apart from the rearrangement and clarification of certain of the provisions of the Act and the removal of anomalies therefrom the following are amongst the more important matters for which provision is made in the Bill.

- (i) Increase in the penalties for trafficking in narcotics with compulsory minimum sentences for second and subsequent offences.
- (ii) The establishment of a special offence, with provision for severe punishment, of the illegal importation of narcotics into Canada.
- (iii) Authority for a court to prohibit persons convicted of trafficking offences from driving motor vehicles.
- (iv) Authority to provide by regulations for legal transactions in narcotics, including special measures with respect to members of the medical, dental and veterinary professions, to possess, use, administer and prescribe narcotic drugs in their professional practice.

Unless otherwise indicated, the following section, subsection, paragraph or subparagraph references are to corresponding provisions in the present *Opium and Narcotic Drug Act* with revision changes indicated by the use of the word "Revised".

1. Because the Act is essentially one of control and deals wholly with narcotics, it is considered desirable to change the title.

INTERPRETATION.

Definitions.	2. (1) In this Act,	
"Analyst."	(a) "analyst" means a person designated as an analyst under the <i>Food and Drugs Act</i> or under this Act;	
"Marihuana."	(b) "marihuana" means <i>Cannabis sativa L.</i> ;	
"Minister."	(c) "Minister" means the Minister of National Health and Welfare;	5
"Narcotic."	(d) "narcotic" means any substance included in the Schedule or anything that contains any substance included in the Schedule;	
"Opium poppy."	(e) "opium poppy" means <i>Papaver somniferum L.</i> ;	10
"Place."	(f) "place" includes any vehicle, vessel, railway car or aircraft;	
"Possession."	(g) "possession" means possession as defined in the Criminal Code; and	
"Traffic."	(h) "traffic" means	15
	(i) to manufacture, sell, give, administer, transport, send, deliver or distribute, or	
	(ii) to offer to do anything mentioned in subparagraph (i)	
	otherwise than under the authority of this Act or the regulations.	20
Possession of place.	(2) For the purposes of this Act, a person who occupies, controls, or is in possession of any place in or upon which any narcotic is found shall be deemed to be in possession thereof, unless he proves that the narcotic was there without his authority, knowledge or consent.	25

OFFENCES AND PUNISHMENTS.

Possession of narcotic.	3. (1) Except as authorized by this Act or the regulations, no person shall have a narcotic in his possession.	
Offence.	(2) Every person who violates subsection (1) is guilty of an offence and is liable	30
	(a) upon summary conviction to imprisonment for a term of not less than six months and not more than eighteen months; or	
	(b) upon conviction on indictment to imprisonment for a term of not less than six months and not more than seven years.	35
Trafficking in narcotics.	4. (1) Except as authorized by this Act or the regulations,	
	(a) no person shall traffic in a narcotic or any substance represented or held out by him to be a narcotic; and	40
	(b) no person shall have in his possession any narcotic for the purpose of trafficking.	

2. (1) (a) Section 2 (c) revised.

(b) New.

(c) Section 2 (h).

(d) Section 2 (d) revised.

(e) New.

(f) New.

(g) New.

(h) Section 2 (mm) revised.

(2) Section 17 revised.

3. Section 4 (1) revised.

4. (1) Section 4 (3) revised.

- Offence. (2) Every person who violates subsection (1) is guilty of an indictable offence and is liable
- (a) for a first offence, to imprisonment for a term of not more than fourteen years;
 - (b) for a second offence, to imprisonment for a term of not less than ten years and not more than twenty years; and
 - (c) for a third and subsequent offence, to imprisonment for life but not less than twenty years.
- Previous conviction. (3) If a person who has been convicted of an offence under subsection (3) of section 4 of the *Opium and Narcotic Drug Act* is subsequently convicted of an offence under subsection (2) of this section, the conviction under this section shall for the purposes of this section be deemed to be for a second offence; and if a person who has been convicted of a second offence under subsection (3) of section 4 of the *Opium and Narcotic Drug Act* is subsequently convicted of an offence under subsection (2) of this section, the conviction under this section shall for the purposes of this section be deemed to be for a third offence.
- Importation of narcotics. 5. (1) Except as authorized by this Act or the regulations, no person shall import any narcotic into Canada.
- Offence. (2) Every person who violates subsection (1) is guilty of an indictable offence and is liable for a first offence to imprisonment for a term of not less than ten years and not more than twenty years and for a second or subsequent offence to imprisonment for life but not less than twenty years.
- Cultivation of opium poppy or marihuana. 6. (1) No person shall cultivate opium poppy or marihuana except under the authority of and in accordance with a licence issued to him under the regulations.
- Offence. (2) Every person who violates subsection (1) is guilty of an offence and is liable
- (a) upon summary conviction to imprisonment for a term of not more than eighteen months; or
 - (b) upon conviction on indictment, to imprisonment for a term of not more than seven years.
- Destruction of plants. (3) The Minister may cause to be destroyed any growing plant of opium poppy or marihuana.
- Licences to deal in narcotics. 7. A person may import, export, sell, manufacture, produce or distribute a narcotic under the authority of and subject to a licence issued to him for that purpose under the regulations.

(2) New in part and Section 4 (3) revised.

(3) New.

5. New.

6. Section 4 (2) revised.

7. Section 3 in part, revised.

PROSECUTIONS.

Burden of
proving
exception,
etc.

8. No exception, exemption, excuse or qualification prescribed by law is required to be set out or negatived, as the case may be, in an information or indictment for an offence under this Act or under section 406, 407 or 408 of the *Criminal Code* in respect of an offence under this Act; 5
and in any prosecution under this Act the burden of proving that an exception, exemption, excuse or qualification prescribed by law operates in favour of the accused is on the accused, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, 10
excuse or qualification does not operate in favour of the accused, whether or not it is set out in the information or indictment.

Procedure in
prosecution
for
trafficking.

9. In a prosecution for an offence under paragraph (b) of subsection (1) of section 4, if the accused does not plead 15
guilty, the trial shall proceed as if it were a prosecution for an offence upon indictment under section 3, and after the close of the case for the prosecution and after the accused has had an opportunity to make full answer and defence, the court shall make a finding as to whether or not the 20
accused was in possession of the narcotic contrary to section 3; if the court finds that the accused was not in possession of the narcotic contrary to section 3, he shall be acquitted, but if the court finds that the accused was 25
in possession of the narcotic contrary to section 3 he shall be given an opportunity of establishing that he was not in possession of the narcotic for the purpose of trafficking, and thereafter the prosecutor shall be given an opportunity of adducing evidence to establish that the accused was in 30
possession of the narcotic for the purpose of trafficking; if the accused establishes that he was not in possession of the narcotic for the purpose of trafficking he shall be acquitted of the offence as charged, but he shall be convicted of an offence under section 3 and sentenced accordingly; and if the 35
accused fails to establish that he was not in possession of the narcotic for the purpose of trafficking he shall be convicted of the offence as charged and sentenced accordingly.

No punish-
ment less than
prescribed
minimum.

10. Notwithstanding anything in the *Criminal Code* or any other statute or law, a court has no power to impose a punishment for an offence, other than a first offence under 40
subsection (1) of section 3, less than the minimum punishment prescribed for that offence by this Act.

Order
prohibiting
driving of
motor
vehicle.

11. (1) Where an accused is convicted of an offence under section 4, the court may, in addition to any other punishment that may be imposed for that offence, make an 45

8. New in part and Section 15 revised.

9. Section 4 (4) revised.

10. Section 4 (1) in part, revised.

11. New.

order prohibiting him from driving a motor vehicle on the highway in Canada during any period that the court considers proper.

Copy of
order to
registrar.

(2) Where an order is made pursuant to subsection (1), a copy of the order certified by the court shall

5

(a) where the accused holds a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the licence or permit was issued, or

(b) where the accused does not hold a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the accused resides.

Driving
while dis-
qualified.

(3) Every one who drives a motor vehicle in Canada while he is disqualified or prohibited from driving a motor vehicle by reason of an order made pursuant to subsection (1), is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months.

Certificate
of analyst.

12. In any prosecution for an offence mentioned in section 8, a certificate of an analyst stating that he has analyzed or examined a substance and stating the result of his analysis or examination is receivable in evidence and is *prima facie* proof of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate and without further proof thereof.

20

25

Finger-
printing.

13. The *Identification of Criminals Act* applies to any person in lawful custody charged with, or under conviction of, an offence under section 3 or 6 where the proceedings are by way of summary conviction.

30

SEARCH AND SEIZURE.

Search and
seizure.

14. (1) A peace officer may, at any time,

(a) without a warrant enter and search any place other than a dwelling-place, and, under the authority of a Writ of Assistance or a warrant issued under this section, enter and search any dwelling-place, in which he reasonably believes there is a narcotic by means of or in respect of which an offence against this Act has been committed;

35

(b) search any person found in such place; and

40

(c) seize and take away any narcotic found in such place, anything in which he reasonably suspects a narcotic is contained or concealed, or any other thing by means of or in respect of which he reasonably believes an offence against this Act has been committed.

12. Section 18 revised.

13. Section 27 revised.

14. Sections 19 and 22 revised.

Warrant to
search
dwelling-
place.

(2) A magistrate who is satisfied by information upon oath that there is reasonable ground for believing that there is a narcotic in any dwelling-place may issue a warrant under his hand authorizing a peace officer named therein at any time to enter the dwelling-place and search for 5 narcotics.

Writ of
Assistance.

(3) A judge of the Exchequer Court of Canada shall, upon application by the Attorney General of Canada, issue a Writ of Assistance authorizing and empowering the person named therein, aided and assisted by such person 10 as the person named therein may require, at any time, to enter any dwelling-place and search for narcotics.

Powers of
peace officer.

(4) For the purpose of exercising his authority under this section, a peace officer may, with such assistance as he deems necessary, break open any door, window, lock, 15 fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.

FORFEITURE.

Forfeiture.

15. Where a person has been convicted of an offence under this Act

(a) any narcotic by means of or in respect of which the 20 offence was committed is thereby forfeited to Her Majesty; and

(b) the court may order that any other thing by means of or in respect of which the offence was committed be forfeited to Her Majesty; 25

and any narcotic or other thing so forfeited or ordered to be forfeited shall be delivered to the Minister who may make such disposition thereof as he thinks fit.

REGULATIONS.

Regulations.

16. The Governor in Council may make regulations

(a) providing for the issue of licences 30

(i) for the importation, export, sale, manufacture, production or distribution of narcotics,

(ii) for the cultivation of opium poppy or marihuana, and

prescribing the forms, duration, terms and conditions 35 of licences and the fees payable therefor and providing for the cancellation and suspension of licences;

(b) authorizing the sale or possession of or other dealing in narcotics and prescribing the circumstances and conditions under which and persons by whom narcotics 40 may be sold, had in possession or otherwise dealt in;

15. Sections 20 and 21 revised.

16. Section 23 revised.

(c) requiring physicians, dentists, veterinarians, pharmacists and other persons who deal in narcotics as authorized by this Act or the regulations to keep records and make returns;

(d) prescribing the punishment by a fine not exceeding 5 five hundred dollars or imprisonment for a term not exceeding six months, or both, to be imposed upon summary conviction for breach of any regulation; and

(e) generally, for carrying out the purposes and provisions 10 of this Act.

Designation
of analysts.

17. The Governor in Council may designate any person as an analyst for the purpose of this Act.

Amendment
of Schedule.

18. The Governor in Council may, from time to time, amend the Schedule by adding thereto or deleting there- 15 from any substance, the inclusion or exclusion of which, as the case may be, is by him deemed necessary in the public interest.

Repeal.

19. The *Opium and Narcotic Drug Act*, chapter 201 of the Revised Statutes of Canada, 1952, is repealed. 20

Coming into
force.

20. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

17. Section 23 (2) revised.

18. Section 24 revised.

SCHEDULE.

1. Opium, its preparations, its alkaloids, their derivatives and salts, but not including Apomorphine.
2. Morphine, its derivatives and salts.
3. Codeine, its derivatives and salts.
4. Thebaine, its derivatives and salts.
5. (a) Acetyldihydrocodeinone, its derivatives and salts,
 (b) N-Allylnormorphine, its derivatives and salts,
 (c) Benzylmorphine, its derivatives and salts,
 (d) Diacetylmorphine, its derivatives and salts (Heroin),
 (e) Dihydrocodeine, its derivatives and salts,
 (f) Dihydrocodeinone, (Hydrocodone), its derivatives and salts,
 (g) Dihydrodesoxymorphine, its derivatives and salts,
 (h) Dihydrohydroxycodeinone, (Oxycodone), its derivatives and salts,
 (i) Dihydromorphine, its derivatives and salts,
 (j) Dihydromorphinone, (Hydromorphone), its derivatives and salts,
 (k) Methyldihydromorphinone, (Metopon), its derivatives and salts,
 (l) Morphine-N-oxide, its derivatives and salts,
 (m) β -4-Morpholinylethylmorphine, (Pholcodine), its derivatives and salts.
6. Coca plant, its alkaloids (Cocaine), and their derivatives and salts.
7. Cannabis sativa L., its preparations and derivatives (Cannabinol).
8. (a) α -1,3-Dimethyl-4-phenyl-4-propionoxypiperidine (Alphaprodine), its derivatives and salts,
 (b) Ethyl 1-methyl-4-phenylpiperidine-4-carboxylate (Pethidine), its derivatives and salts,
 (c) 4-(3'-Hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone (Ketobemidone), its derivatives and salts.
9. Ethyl 1-methyl-4-phenylhexamethyleneimine-4-carboxylate, its derivatives and salts.

10. (a) 4,4-Diphenyl-6-dimethylaminoheptanone-3 (Methadone), its derivatives and salts,
 (b) 4,4-Diphenyl-6-morpholinylheptanone-3 (Phenadoxone), its derivatives and salts,
 (c) 4,4-Diphenyl-6-piperidinylheptanone-3, its derivatives and salts,
 (d) 4,4-Diphenyl-5-methyl-6-dimethylaminohexanone-3 (Iso-methadone), its derivatives and salts,
 (e) 4,4-Diphenyl-5-methyl-6-piperidinylhexanone-3, its derivatives and salts.
11. (a) 3-Dimethylamino-1,1-di-(2'-thienyl)-butene-1 (Dimethylthiam-butene), its derivatives and salts,
 (b) 3-Ethylmethylamino-1,1-di-(2'-thienyl)-butene-1, its derivatives and salts.
12. (a) *dl*-3-Hydroxy-N-methylmorphinan (Racemorphan), its derivatives and salts, but not including
 d-3-Hydroxy-N-methylmorphinan (Dextrorphan),
 l-3-Hydroxy-N-allylmorphinan (Levallorphan),
 (b) *l*-3-Hydroxy-N-methylmorphinan (Levorphan), its derivatives and salts,
 (c) *dl*-3-Methoxy-N-methylmorphinan (Racemethorphan), its derivatives and salts, but not including
 d-3-Methoxy-N-methylmorphinan (Dextromethorphan),
 (d) *l*-3-Methoxy-N-methylmorphinan (Levomethorphan), its derivatives and salts.